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October 29, 2013

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Second Floor  
Harrisburg, PA 17120

**RE: Lisa Martin v. PECO Energy Company**  
**PUC Docket No.: F-2013-2360697**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission are the following documents in the matter referenced above.

- Answer
- Answer & New Matter
- Motion Objecting to Continuance Request
- Motion for Judgment on the Pleadings
- Motion to Admit Exhibits
- Preliminary Objection
- Exceptions
- Reply Exceptions
- Main Brief
- Reply Petition

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Very truly yours,

Shawane Lee  
Counsel for PECO Energy Company  
SL/lo

cc: Lisa Martin (via First Class Mail)  
Harry J. Cooper, Esq. (via First Class Mail)



## REPLY EXCEPTIONS

PECO Energy Company (“PECO Energy”) hereby replies to the Exceptions filed by Lisa Martin (“Complainant”) in the above-referenced matter on October 21, 2013. On April 29, 2013, Complainant filed a formal complaint against PECO Energy. In her formal complaint, Complainant alleges that she disagrees with a \$9,592.07 balance that has accrued at the service address 242 New Galena Road, Chalfont, Pennsylvania. The Complainant additionally alleges that she never had service in her name for 242 New Galena Road, Rear and should not be responsible for the balance incurred for that address. Respondent, PECO Energy filed an Answer on May 13, 2013, averring that the entire balance at issue is comprised of Customer Assistance Program (“CAP”) arrears. Additionally, the Complainant is responsible for the balance because she initiated service in her name and did not discontinue service at the address when she moved from the property. A telephonic hearing was held before Administrative Law Judge Elizabeth H. Barnes (“ALJ Barnes”) on August 1, 2013. ALJ Barnes issued an Initial Decision on September 18, 2013, wherein she held *inter alia*:

On October 7, 2010, there was a charge off in the amount of \$9,592.07 from the account being finalized in May of 2010. N.T. 25. The entire amount in dispute is Customer Assistance Program (Cap) arrears which are not subject to a Commission-ordered payment arrangement. 66 Pa. C.S. § 1405(c). N.T. 29. I find the amount of \$9,592.07 to be appropriate because it includes the \$3,242.37 that was transferred to the account on November 2008 that came from the rear account that was not paid and because PECO discontinued service shortly after Complainant requested discontinuation in May, 2010. N.T. 30-32. PECO Exhibit 5. It is reasonable that PECO believed Complainant was the responsible account holder for both the front and rear properties given the social security numbers and name of Lisa A. Martin are the same on the accounts for both units as well as for an account held by Complainant from November 3, 2005 through March 2, 2007 at 123 Mary Street, Doylestown, PA. PECO Exhibit 3.

See Lisa Martin v. PECO Energy Company, Initial Decision, F-2013-2360697 (Order entered, Sep. 18, 2013).

The Commission should sustain the Initial Decision of ALJ Barnes. ALJ Barnes correctly determined that the Complainant is responsible for the \$9,592.07 balance incurred at 242 New Galena Road, Rear Apartment and Front Apartment.

The Complainant excepts to ALJ Barnes' Initial Decision because she claims that she never requested service for the Rear Apartment. The Complainant claims that another individual started service in her name for the Rear Apartment at 242 New Galena Road. Additionally, the Complainant excepts to ALJ Barnes' Initial Decision because the ALJ determined that the Complainant did not discontinue service for the Front Apartment at 242 New Galena Road until May 27, 2010, as opposed to January, 2010. The Complainant further excepts because she argues the burden of proof on the discontinuation date should have been shifted to PECO Energy. Finally, the Complainant excepts to ALJ Barnes' Initial Decision because she claims discovery was not provided to her prior to the hearing and a late-filed exhibit submitted by PECO Energy is prejudicial to her. PECO Energy responds as follows:

**(1) Whether the Complainant should be responsible for electric service charges incurred at 242 New Galena Road, Rear Apartment.**

The record clearly demonstrates that the Complainant held a mortgage with David Bushong for the property at 242 New Galena Road. See N.T. 17. The Complainant and Mr. Bushong had several tenants who lived at the premises over a period of three years, beginning in 2006. See N.T. 7. The Complainant testified that one of the tenants or Mr. Bushong may have put the electric service for the Rear Apartment into her name. See N.T. 17-18. Specifically, the Complainant testified:

I'm assuming Mr. Bushong put somebody into the apartment, because I had nothing to do with the property. I lived at a separate address. He lived around the corner, so my assumption is that he put somebody in there for a couple of months. I guess he used my

information or they used it, as your records show that he was only there for a couple months and then it was reestablished again.

The account for the Rear Apartment was established with the Complainant's social security number. N.T. 27. The Complainant enrolled in the CAP program for this account, reporting a monthly income for just herself as the occupant of \$942.00 per month. N.T. 28. In order for a customer to be enrolled in the CAP program, the customer must complete and sign a verification of income, which includes copies of paystubs, unemployment state or social security information. N.T. 28-29. The final account balance owed for the Rear Apartment was \$3,191.57. N.T. 28. Based on these facts, ALJ Barnes correctly determined that it was reasonable for PECO Energy to believe that the Complainant was the responsible account holder for the Rear Apartment. Indeed, the Complainant offered no proof to the contrary except her own self-serving testimony. She offered no exhibits to demonstrate she resided at another address during the service period at issue such as bank statements, other utility bills, tax returns, etc. Notwithstanding the fact the Complainant admitted she was a co-mortgagee at the property, all of the evidence in the record (matching social security number, CAP enrollment and verification) pointed to the fact that she was the responsible account holder. The Complainant did not meet her burden of proof; accordingly, she is responsible for the \$3,191.57 in electric service charges incurred at 242 New Galena Road, Rear Apartment, while the account was in her name.

**(2) Whether the Complainant discontinued service at 242 New Galena Road, Front Apartment and should be responsible for the service charges incurred until the date service was discontinued.**

The record clearly demonstrates that the Complainant established service at 242 New Galena Road, Front and did not discontinue service at the address until May 27, 2010.

Specifically, the Complainant testified that she was aware the electric service for the Front

Apartment was in her name. See N.T. 8. The Complainant enrolled in PECO Energy's CAP program for the Front Apartment on December 26, 2008. See N.T. 29. The Complainant re-certified in the CAP program for the Front Apartment. See N.T. 30. While at this service address, the Complainant entered into a payment agreement with PECO Energy on December 26, 2008, to pay a \$3,836.40 outstanding balance on the account. See N.T. 32. The Complainant testified that she left the property on January 11, 2010, after it was foreclosed and contacted the company at that time. See N.T. 9. However, the company produced a business record showing there was no call from the Complainant in January 2010 to discontinue service. See N.T. 32. The company produced a business record showing that the Complainant called to discontinue service at the address on May 27, 2010. See N.T. 32. At the time the Complainant discontinued service, the balance on the account was \$9,437.45. Of this amount, \$3,242.37 was for the charges incurred for the Rear Apartment, which transferred to the Front Apartment account. See N.T. 30.

Based on the above facts, ALJ Barnes correctly concluded that the Complainant was responsible for the balance at 242 New Galena Road, Front. The Complainant argues in her exceptions that the burden of proof should shift to the company to prove the date service was discontinued. The record demonstrates the burden did shift to the company. The company proved with a business record that the Complainant did not call on January 2010 as she said in her testimony, but rather, she called on May 27, 2010. The burden then shifted back to the Complainant to prove otherwise and she presented nothing in the form of testimony, documentation or witnesses to prove that she called in January 2010 and not on May 27, 2010. Accordingly, the Complainant's exception should be denied.

**(3) Whether the Complainant was denied discovery prior to the hearing.**

The Complainant raises an exception concerning an alleged denial of discovery prior to the hearing. The formal complaint was served on PECO Energy on April 30, 2013. Not once during the course of the litigation did the Complainant or her counsel Harry J. Cooper, Esquire issue a request for discovery in the form of interrogatories, a request for production of documents, a letter making a request or otherwise. There were never any discovery motions filed with the Commission for ALJ Barnes' to rule upon in which she had to adjudicate a discovery dispute. If the Complainant wanted to conduct discovery she had ample opportunity practically four (4) months from April 29, 2013 when the complaint was served until August 1, 2013 when the hearing took place. The Complainant requested nothing and did not initiate discovery. Accordingly, the Complainant's exception in this regard is baseless and should be denied.

**(4) Whether the Complainant was prejudiced by ALJ Barnes admitting two PECO Energy late filed exhibits**

The Complainant excepts to ALJ Barnes' Initial Decision because she claims that two late filed exhibits were admitted after the hearing that were prejudicial to her. During the hearing, PECO Energy requested that the company be permitted to offer two late filed exhibits. The first exhibit contained a final billing statement for 242 New Galena Road, Front and Rear to demonstrate where the final bill had been mailed. The second exhibit was a record of the customer contacts on the account from January 4, 2010 through May 27, 2010, demonstrating the calls made during the period the Complainant claimed she called the company to discontinue service for 242 New Galena Road, Front. Both exhibits were relevant to resolve the dispute between the parties.

PECO Energy sent a copy of the late-filed exhibits to Complainant's counsel and he never filed an objection to the exhibits. Now, the Complainant waits until the exception process to object to the exhibits. PECO Energy avers that the exception process is not an appropriate method for objecting to a late-filed exhibit. The Complainant had an opportunity to object to the late filed exhibits before ALJ Barnes closed the record yet she and her counsel waived that opportunity. The Complainant cannot now raise an exception to ALJ Barnes' decision to admit the two exhibits into evidence and complain her decision was an error of law when they never objected to the exhibits in the first instance. Accordingly, PECO Energy avers that this Exception should be denied.

In conclusion, ALJ Barnes' Initial Decision correctly applied the facts, the law and the burden of proof and determined the Complainant is responsible for a \$9,592.07 balance comprised of CAP arrears. As ALJ Barnes concluded:

Complainant has failed to show she did not reside at 242 New Galena Road, or that there was an unauthorized use of her name and social security number to establish electric service accounts in her name for the Rear unit. Her admission that she held a mortgage for the property until it was foreclosed in January, 2010 is further evidence that the Company accurately billed the Complainant. On October 7, 2010, there was a charge off in the amount of \$9,592.07 from the account being finalized in May of 2010. N.T. 25. The entire amount in dispute is Customer Assistance Program (CAP) arrears which are not subject to a Commission-ordered payment arrangement. 66 Pa.C.s. 1405(c). ...Complainant bears the burden of proving that she told the utility to discontinue service in January, 2010. Evidence to support this claim is comprised entirely of her testimony.... Accordingly, I find Complainant has not sustained her burden of proving that PECO has violated an order, regulation or statute of the Commission.

" See Initial Decision, p. 7. Accordingly, ALJ Barnes' decision, dismissing the Complainant's formal complaint should be upheld.

For the reasons set forth above, PECO respectfully requests that the Commission deny the Exceptions and issue an Order upholding the Initial Decision in its entirety.

Respectfully submitted,



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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**LISA MARTIN**

**COMPLAINANT**

**v.**

**PECO ENERGY COMPANY,**

**RESPONDENT**

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**Docket No. F-2013-2360697**

**CERTIFICATE OF SERVICE**

I, Shawane L. Lee, hereby certify that I have this day served a true copy of the foregoing Reply Exceptions upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Lisa A. Martin  
63 Sellersville Road  
Chalfont, PA 18914**

**Harry J. Cooper, Esquire  
Attorney at Law  
P.O. Box 545  
Chalfont, PA 18914-0545**

Dated at Philadelphia, Pennsylvania, October 28, 2013



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